

VANDERSLICE DECL. EXHIBIT A9

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 MAXIMILLIAN KLEIN, et al.,
11 Plaintiff,
12 v.
13 META PLATFORMS, INC.,
14 Defendant.

Case No.: 3:20-CV-08570-JD

**DECLARATION OF MATTHEW SGRO,
ESQ., IN SUPPORT OF SEALING
HIGHLY CONFIDENTIAL MATERIAL
PRODUCED BY NON-PARTY EMBEE
MOBILE INC.**

16 I, Matthew Sgro, Esq., make this declaration on behalf of Non-Party Embee Mobile Inc.
17 (hereinafter, "Embee") in furtherance of its request to seal Highly Confidential information it
18 produced in response to third party subpoenas served in connection with the above-captioned matter
19 and contained in the parties' filings, and in support thereof state as follows:

20 1. I am adult over the age of 18 and am authorized to make this Declaration by my
21 employer, Similarweb Ltd. (hereinafter, "Similarweb").

22 2. I am currently employed as Similarweb's Associate General Counsel, where my
23 responsibilities include providing legal advice to Similarweb and its wholly owned subsidiaries, as
24 well as assisting in the preparation of Similarweb and its subsidiaries' responses to subpoenas.

25 3. On June 24, 2022, the Plaintiffs in this matter issued a subpoena to Similarweb's
26 wholly owned subsidiary, Embee.
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1 4. On August 17, 2022, the Defendant in this matter issued its own subpoena to
2 Similarweb.

3 5. In response to the subpoenas, Similarweb made a production of documents to the
4 parties on October 27, 2022.

5 6. Each of the documents in Similarweb's production were designated "Highly
6 Confidential" pursuant to the case's Stipulated Protective Order (Docket No. 314) because they
7 consisted of "trade secret or other confidential research, development, or commercial information"
8 and disclosure of such information is "likely to cause material and significant harm" to Similarweb
9 and Embee. *See* Stipulated Protective Order, ¶¶ 2.3, 2.9.

10 7. On October 12, 2023, Similarweb's counsel was contacted by counsel for the
11 Consumer Plaintiffs. Consumer Plaintiffs' counsel advised that (1) Highly Confidential Information
12 produced by Similarweb was included on page 137 of Docket No. 645-5, the Declaration of Dr.
13 Nicolas Economides in Support of Consumer Plaintiffs' Motion for Class Certification Errata, dated
14 July 27, 2023 (hereinafter, the "Economides Declaration"); (2) the document containing Similarweb's
15 Highly Confidential had been temporarily sealed; and, (3) that if Similarweb wished that its Highly
16 Confidential information remain sealed, it should submit a declaration in support of sealing to
17 Consumer Class counsel.

18 8. On October 25, 2023, Similarweb's counsel was contacted by counsel for Defendant
19 Meta Platforms, Inc. Defendant's counsel advised that (1) Highly Confidential information produced
20 by Similarweb was included on pages 131 and 159 of the User Class Rebuttal Report of Catherine
21 Tucker, dated August 4, 2023, which appears at Docket Nos. 645-19, 663-5, and 669-6 (hereinafter,
22 the "Tucker Report"); and, (2) if Similarweb wished that its Highly Confidential information remain
23 sealed, it should submit a declaration in support of sealing to the Defendant's counsel.

24 9. Similarweb wishes that its Highly Confidential material appearing in the Economides
25 Declaration and Tucker Report remain under seal because the material included in the Economides
26 Declaration and Tucker Report is "trade secret or other confidential research, development, or
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1 commercial information” and its disclosure is “likely to cause material and significant harm” to
2 Similarweb and Embee.

3 10. More specifically, Similarweb’s information in the Economides Declaration consists
4 of an internal summary of the Embee data collection process, which is highly proprietary to Embee
5 and its corporate parent, Similarweb.

6 11. Similarweb’s information in the Tucker Report consists of monthly active user data
7 for Embee’s mobile platform, information which is highly proprietary to Embee and Similarweb.

8 12. Moreover, Similarweb’s material in the Economides Declaration and Tucker Report
9 was created for use by potential Embee investors and/or acquirors, and is thus subject to
10 confidentiality obligations to third parties, which may still be in effect.

11 13. Publication of the Highly Confidential material appearing in the Economides
12 Declaration and Tucker Report is likely to cause material and significant harm to Similarweb and
13 Embee, including, the loss of its intellectual property into which it has invested considerable resources
14 and the possible violation of contractual confidentiality obligations it owes to third parties.

15 14. In light of the foregoing, Similarweb requests that its Highly Confidential material
16 appearing in the Economides Declaration (including on page 137) and Tucker Report (including on
17 pages 131 and 159) remain under seal.

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19 I declare under penalty of perjury that the foregoing is true and correct.

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23 Matthew Sgro, Esq.

24 DATE: November 9, 2023
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